

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 850**

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**Introduced by Assembly Member Canciamilla**  
**(Principal coauthor: ~~Assembly Member Benoit~~ coauthors:**  
***Assembly Members Benoit, Niello, and Richman*)**  
(Principal coauthor: Senator Runner)

February 18, 2005

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An act to amend Sections 143 and 149 of the Streets and Highways Code, relating to transportation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 850, as amended, Canciamilla. Toll road agreements.

Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements with private entities or consortia for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects. Existing law authorizes the department to construct high-occupancy vehicle and other preferential lanes.

This bill would instead authorize the department to enter into comprehensive development franchise agreements with public and private entities or consortia for specified types of transportation projects, as defined, subject to certain requirements and conditions. The bill would authorize tolls to be collected after the termination of a franchise agreement period, subject to approval of the California Transportation Commission. The bill would require a franchise agreement to allow the department to open a competitive state facility in the same corridor. The bill would authorize the department to

construct and operate high-occupancy vehicle and other preferential lanes as toll facilities. The bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 143 of the Streets and Highways Code  
2 is amended to read:

3 143. (a) Pursuant to Chapter 3 (commencing with Section  
4 30800) of Division 17, the department, in cooperation with  
5 regional transportation agencies, may solicit proposals, negotiate,  
6 and enter into comprehensive development franchise agreements  
7 with public and private entities, or consortia thereof, for the  
8 construction of transportation projects.

9 (b) For the purpose of facilitating those transportation projects,  
10 the agreements between the parties may include provisions for  
11 ~~limiting the department from initiating the opening to traffic of~~  
12 ~~new competing state highway facilities within the same~~  
13 ~~transportation corridor, for the lease of rights-of-way in, and~~  
14 ~~airspace over or under, these state highways, for the granting of~~  
15 ~~necessary easements, and for the issuance of permits or other~~  
16 ~~authorizations to enable the construction of transportation~~  
17 ~~facilities supplemental to existing state-owned and operated~~  
18 ~~transportation facilities. Facilities constructed by an entity~~  
19 ~~pursuant to an agreement under this section shall, at all times, be~~  
20 ~~owned by the department as an operational part of the state~~  
21 ~~highway system. The agreement shall provide for the lease of~~  
22 ~~those facilities to the franchised entity for up to 35 years to~~  
23 ~~recover private investments in the form of expended funds~~  
24 ~~together with a reasonable rate of return on those funds,~~  
25 ~~negotiated by the department with the contracting entity. In~~  
26 ~~consideration therefor, the agreement shall provide for complete~~  
27 ~~reversion of the privately constructed facility and the right to~~  
28 ~~collect tolls to the department and any other government entity~~  
29 ~~participating in the funding of the project, if any, at the expiration~~  
30 ~~of the lease at no charge to the department or other governmental~~  
31 ~~entity.~~

32 (c) The department may exercise any power possessed by it  
33 with respect to the development and construction of state

1 transportation projects to facilitate the development and  
2 construction of transportation toll projects initiated pursuant to  
3 this section. Agreements for maintenance and police services  
4 entered into pursuant to this section may provide for some form  
5 of negotiated reimbursement for services rendered by the  
6 department and other state agencies. The department may  
7 provide services for which it is reimbursed with respect to  
8 preliminary planning, environmental planning, environmental  
9 certification, environmental review, preliminary design, design,  
10 right-of-way acquisition, and construction of these transportation  
11 projects.

12 (d) (1) Agreements entered into pursuant to this section shall  
13 authorize the contracting entity to impose tolls for use of a  
14 facility constructed by it, and shall require that over the term of  
15 the franchise, that the toll revenues will be applied to payment of  
16 some or all of the capital outlay costs for the project, the costs  
17 associated with operations, toll collection, administration of the  
18 facility, reimbursement to the department or other governmental  
19 entity for the costs of services to develop and maintain the  
20 project, police services, and a reasonable return on investment to  
21 the private entity. The agreement shall require that,  
22 notwithstanding Sections 164, 188, and 188.1, any excess toll  
23 revenue either be applied to any indebtedness incurred by the  
24 private entity with respect to the project or be paid into the State  
25 Highway Account for use in the same transportation corridor as  
26 the toll facility, or both.

27 (2) The collection of tolls for the use of these facilities may be  
28 extended by the commission at the expiration of the franchise  
29 agreement.

30 (e) The plans and specifications for each transportation project  
31 constructed pursuant to this section shall comply with the  
32 department's then-existing standards for similar state  
33 transportation projects. A facility constructed by and leased to  
34 another entity shall, during the term of the lease, be deemed to be  
35 a part of the state highway system for purposes of identification,  
36 maintenance, enforcement of traffic laws, and for the purposes of  
37 Division 3.6 (commencing with Section 810) of Title 1 of the  
38 Government Code.

(f) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(g) Each franchise agreement entered into by the department shall include provisions authorizing the department to open competitive facilities to traffic within the designated corridor. Each franchise agreement entered into by the department shall also include provisions authorizing the department to construct any safety project needed within the designated corridor.

(h) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Sections 149.4, 149.5, and 149.6.

SEC. 2. Section 149 of the Streets and Highways Code is amended to read:

149. The department may construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles, and may authorize or permit such exclusive or preferential use of designated lanes on existing highways that are part of the State Highway System. Prior to constructing such lanes, the department shall conduct competent engineering estimates of the effect of such lanes on safety, congestion, and highway capacity.

To the extent they are available, the department may apply for and use federal aid funds appropriated for the design, construction, and use of such exclusive or preferential lanes, but may also use other State Highway Account funds, including other federal aid funds, for those purposes where proper and desirable.

The department may construct and operate exclusive or preferential lanes under this section as toll facilities.

This section shall be known and may be cited as the Carrell Act.